

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to public records

The Department of Transportation hereby amends Chapter 4, “Public Records and Fair Information Practices,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 305.15 and 307.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 22.4 and 804.29.

Purpose and Summary

This rule making conforms Chapter 4 with recent amendments to the Iowa Code. 2020 Iowa Acts, House File 2627, section 33, amends Iowa Code section 22.4 to clarify that public records may be requested in person, in writing, by telephone, or by electronic means. The Department’s practice already allows for these methods. 2020 Iowa Acts, House File 2474, section 1, amends Iowa Code section 804.29 regarding the confidentiality of information filed with the court used to secure an arrest warrant. During the confidentiality period, access to such information can be expressly restricted by court order.

These amendments also clarify subrule 4.3(6) concerning security of records to state that, without permission from the custodian, a record copy may not be removed from the place where it is available, and the custodian shall place at least one certified copy in the file if the original record is released.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 4, 2020, as **ARC 5246C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on January 13, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on March 17, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **4.3(1)“b”** as follows:

b. Notwithstanding paragraph “*a*” of this subrule, any request that may be related to a potential or an actual tort claim or other litigation shall be submitted to ~~the following address:~~ General Counsel, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. If the custodian receives a request of this nature, the custodian shall forward the request to the department’s general counsel.

ITEM 2. Amend subrule 4.3(3) as follows:

4.3(3) Form of request. A request for access to a record shall reasonably describe the record requested. A request for access to an open record may be made ~~orally or~~ in person, in writing, by telephone, or by electronic means. A requester shall not be required to give reasons for requesting an open record.

ITEM 3. Amend subrule 4.3(6) as follows:

4.3(6) Security of records. No person may, without permission from the custodian, search agency files or remove any record copy from the place where it is made available. The custodian shall supervise the examination and copying of records and protect the records from damage and disorganization. Original paper records shall be released from department custody only upon court order. ~~At~~ The custodian shall place at least one certified copy ~~shall be retained~~ in the file if the original record is released.

ITEM 4. Amend subrule 4.9(6) as follows:

4.9(6) Unless otherwise ordered by the court, all information filed with the court for the purpose of securing a warrant for an arrest including, but not limited to, a citation and affidavits, until such time as a peace officer has made the arrest and has made the officer’s return on the warrant, or the defendant has made an initial appearance in court. (Iowa Code section 804.29)

a. However, the information in the record may be disseminated without court order during the course of official duties to the persons authorized in Iowa Code section 804.29 unless access to such information is expressly denied by court order.

b. Reserved.

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